

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
DOCKET NO. 3:17-cv-00738-FDW-DSC

ROSEANN GEIGER and)
SHERRI HOLLEY, individually and on)
behalf of all others similarly situated)

Plaintiffs,)

vs.)

H.H. FRANCHISING SYSTEMS, INC.,)
d/b/a HOME HELPERS, a foreign)
corporation; GLENKAT, INC.;)
KATHLEEN HOLDEN, an individual; and)
GLENN HOLDEN, an individual,)

Defendants.)

ORDER

THIS MATTER is before the Court upon Defendants Glenkat, Inc. (“Glenkat”), Kathleen Holden (“Kathleen”), and Glenn Holden’s (“Glenn”) Motion to Dismiss (Doc. No. 11) Plaintiffs’ Complaint (Doc. No. 1) and Defendant H.H. Franchising Systems, Inc., d/b/a Home Helpers’ (“HH”) Motion to Dismiss (Doc. No. 20) Plaintiffs’ Complaint and Motion for Preliminary Hearing on its Motion to Dismiss (Doc. No. 21). Plaintiffs amended their complaint (Doc. No. 25; “Amended Complaint”), and Defendants Glenkat, Kathleen, and Glenn subsequently filed a Motion to Dismiss the Amended Complaint (Doc. No. 37). The motions to dismiss are now ripe.

“As a general rule, ‘an amended pleading ordinarily supersedes the original and renders it of no legal effect.’” Young v. City of Mount Ranier, 238 F.3d 567, 572 (4th Cir. 2001) (quotations omitted); see also Brown v. Phillips, 2018 WL 576307, at *2 (W.D.N.C. Jan. 26, 2018). Because Defendant HH filed its Motion to Dismiss and Motion for Preliminary Hearing (Docs. Nos. 20-21) prior to Plaintiffs’ filing of the Amended Complaint, they must be DENIED AS MOOT.

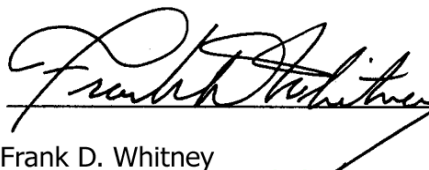
Defendants Glenkat, Kathleen, and Glenn's original Motion to Dismiss (Doc. No. 11) is DENIED AS MOOT for the same reason.

In their remaining Motion, Defendants Glenkat, Kathleen, and Glenn move that the Court dismiss Plaintiffs' Amended Complaint under Rule 12(b)(6) of the Federal Rules of Civil Procedure. The Court has reviewed the pleadings, arguments in the briefs, and applicable law. In light of Fourth Circuit precedent from Hall v. DIRECTV, LLC, 846 F.3d 757 (4th Cir. 2017) and other cases, the Court finds that Plaintiffs have sufficiently stated plausible claims against Defendants. See also Hall, 846 F.3d at 776-778; see also Lundy v. Catholic Health System of Long Island Inc., 711 F.3d 106, 114 (2d Cir. 2016). Upon review by the Court, Defendants' Motion is DENIED WITHOUT PREJUDICE. Defendants are free to raise the issues set forth in the Motion again at summary judgment.

It is therefore ORDERED that Defendants Glenkat, Kathleen, and Glenn's original Motion to Dismiss (Doc. No. 11) and Defendant HH's Motion to Dismiss and Motion for Preliminary Hearing (Docs. Nos. 20, 21) are DENIED AS MOOT, and Defendants Glenkat, Kathleen, and Glenn's subsequent Motion to Dismiss (Doc. No. 37) is DENIED WITHOUT PREJUDICE.

IT IS SO ORDERED.

Signed: June 11, 2018


Frank D. Whitney
Chief United States District Judge

